

CHAPTER 115.

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ARTICLE 1.

In General.

Section 115-1-1. Short title.

This chapter may be referred to as to "Local Agricultural and Forestal Districts Ordinance" of the County of Fairfax and is to become effective June 30, 1983. (13-83-115.)

Section 115-1-2. Policy and purpose.

It is the policy of Fairfax County to conserve and protect and to encourage the development and improvement of its important agricultural and forest lands for the production of food and other agricultural and forest products. It is also Fairfax County policy to conserve and protect agricultural and forest lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, aesthetic quality, and other environmental purposes. It is the purpose of this Chapter to provide a means by which Fairfax County may protect and enhance agricultural and forest lands of local significance as a viable segment of the Fairfax County economy and as an important economic and environmental resource. (13-83-115.)

Section 115-1-3. Authority.

The authority for the establishment of a program of local agricultural and forestal districts in Fairfax County is derived from Title 15.1, Chapter 36.1 of the *Code of Virginia*, entitled the "Local Agricultural and Forestal Districts Act." (13-83-115.)

ARTICLE 2.

Definitions.

Section 115-2-1. [Definitions.]

- (a) *Advisory committee shall mean the Agricultural Forestal Districts Advisory Committee.*
- (b) *Agricultural and forestal district shall mean a district created under this Chapter which contains land in agricultural use, or forestal use, or both uses.*
- (c) *Agricultural products shall mean crops, livestock, and livestock products which shall include, but not be limited to, the following:*
 - (1) Field crops, including corn, wheat, oats, rye, barley, hay, tobacco, peanuts, potatoes and dry beans.
 - (2) Fruits, including apples, peaches, grapes, cherries and berries.
 - (3) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
 - (4) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
 - (5) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs and furs.

(d) *Agricultural production* shall mean the production for commercial purposes of crops, livestock and livestock products, but not land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products.

(e) *Agriculturally significant land* shall mean land that has historically produced agricultural products, or land that an advisory committee considers good agricultural land based upon factors such as soil quality, topography, climate, agricultural product markets, farm improvements, agricultural economics and technology, and other relevant factors.

(f) *Agricultural use* shall mean all agricultural and horticultural uses as defined in Chapter 4, Article 19, Section 4-19-2, of the Fairfax County Code.

(g) *District* shall mean an agricultural and forestal district.

(h) *Forestal products* shall include, but are not limited to, lumber, pulpwood, posts, firewood, Christmas trees and other wood products for sale or for farm use.

(i) *Forestally significant land* shall mean land that has historically produced forestal products, or land that an advisory committee considers good forest land based upon factors such as soil quality, topography, climate, forest product markets, forest improvements, forestry economics and technology, environmental quality and other relevant factors.

(j) *Forestal use* shall mean forestal use as defined in Chapter 4, Article 19, Section 4-19-2, of the Fairfax County Code.

(k) *Freeholder* shall mean a person holding a fee simple title to real property.

(l) *Landowner* or *owner of land* shall mean any person holding a fee simple interest in property but shall not include the holder of an easement.

(m) *Person* shall mean any individual person, administrator or executor of an estate, partnership, association, corporation or other legal entity. (13-83-115.)

ARTICLE 3.

District Applications.

Section 115-3-1. Application initiation.

(a) Any owner or owners of land may submit an application to the Board of Supervisors for the establishment of local agricultural and forestal district within Fairfax County.

(b) All owners shown on the deed of any parcel proposed for inclusion in the district must sign the application form and thereby evidence their desire for that parcel to be included in the district. (13-83-115.)

Section 115-3-2. Minimum district size, district boundaries.

An agricultural and forestal district shall be comprised of no less than twenty (20) acres, all of which shall be located in Fairfax County. (13-83-115; 21-95-115.)

ARTICLE 4.1

Process for Review of Application.

1. Editor's note--Ord. No. 21-95-115 effected major changes in Art. 4 through the process of redesignation and amendment. For the convenience of the user, the following table will illustrate the former designation and the new disposition:

TABLE INSET:

Former Section	New Section
115-4-1	115-4-1
115-4-2	115-4-4
115-4-3	115-4-5
115-4-4	115-4-6
115-4-5	115-4-7
115-4-6	115-4-8
115-4-7	115-4-9

Formerly, Art. 4 consisted of §§ 115-4-1--115-4-7 and was derived from Ord. Nos. 13-83-115 and 16-85-115.

Section 115-4-1. Submittal of district applications, referral to Planning Commission.

(a) The application shall be submitted to the Board of Supervisors in such form as prescribed in Sections 115-8-2 of this Chapter.

(b) Upon the acceptance of such application, it shall be referred to the Planning Commission. (21-95-115.)

Section 115-4-2. Initial notice required upon receipt of application.

(a) The Planning Commission or its designee shall, within thirty (30) days after acceptance of an application, provide initial notice of the filing of a district application by publishing a notice in a newspaper having general circulation within Fairfax County and by posting such notice in three (3) conspicuous places within Fairfax County, at least one (1) of which is located within or at the boundary of the proposed district.

(b) Such notice shall state:

(1) That an application for an agricultural and forestal district of local significance has been submitted to the Fairfax County Board of Supervisors;

(2) That a copy of the application is on file and open to public inspection in the office to the Clerk to the Board;

(3) That any proposals for modifications of the district shall be filed within thirty (30) days of the date of the notice;

(4) That any owner included in the application may withdraw his land, in whole or in part, at any time, until the Board of Supervisors makes a final decision as to the establishment of the district;

(5) That the Agricultural and Forestal Districts Advisory Committee shall review the application and shall submit a report, with recommendations, to the Planning Commission. If known at the time the initial notice is published and posted, such notice shall also include the date, time and location where the Advisory Committee shall review the application; and

(6) That the dates, times and location of the public hearing before the Planning Commission and Board of Supervisors are as stated therein, or, if not so stated in the notice, such information shall subsequently be published and posted in three (3) conspicuous places within Fairfax County, at least one (1) of which is located within or at the boundary of the proposed district, within thirty (30) days after the date of initial notice.

(c) A copy of the application shall be on file and open to public inspection in the office to the Clerk to the Board on or prior to the date that the initial notice is published. (21-95-115.)

Section 115-4-3. Modifications to proposed districts.

(a) Once an application has been accepted pursuant to Section 115-3-1, any proposed modifications to the proposed district, including additions, shall be filed within thirty (30) days after the date the initial notice is published pursuant to Section 115-4-2; provided, however, that any owner included in the application may withdraw his land, in whole or part, at any time until the Board of Supervisors makes a final decision as to the establishment of the district pursuant to Section 115-4-6.

(b) Modifications to add land area may be proposed by submitting an application and payment of the fee as prescribed under Sections 115-8-2 and 115-8-3 of this Chapter. Withdrawals from the application will be effectuated upon submission of a written notice signed by at least one (1) owner of each parcel to be withdrawn.

(c) After a district has been established, a separate application for the addition of contiguous qualifying lands to be including in the established district may be submitted. (21-95-115.)

Section 115-4-4. Referral to the Advisory Committee.

(a) After thirty (30) days have passed following the date the initial notice is published pursuant to Section 115-4-2, the application shall be referred to the Advisory Committee established by the Board under Article 7 of this Chapter.

(b) The Advisory Committee shall review the application and shall submit a report, including recommendations, to the Planning Commission.

(c) In preparing the recommendation, the Advisory Committee shall consider the criteria set forth under Article 5 of this Chapter and any proposal for modification which may have been submitted pursuant to Section 115-4-3. (21-95-115.)

Section 115-4-5. Public hearing and review by the Planning Commission.

(a) After receiving the report of the Advisory Committee, and a report from the County staff, the Planning Commission shall hold a public hearing as prescribed in Section 115-4-7.

(b) After the public hearing, the Planning Commission shall review the application and shall submit a recommendation to the Board of Supervisors.

(c) In preparing the recommendation, the Planning Commission shall consider the criteria set forth under Article 5 of this Chapter. (21-95-115.)

Section 115-4-6. Public hearing and decision by the Board of Supervisors.

(a) The Board of Supervisors, after receiving the reports and recommendations of the County staff, the Planning Commission and the Advisory Committee shall hold a public hearing as prescribed in Section 115-4-7, and after such public hearing may approve the application or a modification of the application to establish a district by the adoption of a district ordinance as described below, or deny the application, as it deems appropriate.

(b) In making its decision, the Board shall consider the criteria set forth under Article 5 this Chapter.

(c) In adopting a modification of an application, the Board may subtract lands from the application that has been subject to the review process prescribed in this Article. Any additional lands proposed for inclusion in a district shall be included in a separate application subject to the full review process prescribed in this Article.

(d) No district ordinance shall be adopted establishing a local district which does not meet the minimum requirements as set forth in Section 115-3-2 of this Chapter.

(e) The Board shall act to adopt or deny the application no later than one (1) year from the date the initial application was accepted. (21-95-115.)

Sec. 115-4-7. Public hearing procedures.

Public hearings required to be held by the Planning Commission and Board of Supervisors shall be conducted in the following manner:

(a) No public hearing as required by the provisions of this Chapter shall be held unless documented evidence can be presented that the following notice requirements have been satisfied.

(b) The subject of the public hearing need not be advertised in full but may be advertised by reference. Every such advertisement shall contain a reference to the place or places within the County where copies of the subject hearing may be examined.

(c) The hearing shall be held where the Board usually meets or at a place otherwise readily accessible to the proposed district.

(d) Public notice of any hearing held shall be published once a week for two (2) successive weeks in a local newspaper having general circulation in the County. Such notice shall be published not less than six (6) days nor more than twenty-one (21) days before the date of the hearing, and shall specify the date, time and place of hearing, a description of the application, and any available recommendations of the Advisory Committee and/or Planning Commission. If such recommendations are not available at the time of notice, the notice shall specify where such recommendations may be obtained when they are available. Such notice shall be the responsibility of the hearing body.

(e) The hearing body shall submit written notice to the property owner(s) of each parcel involved such to be postmarked at least twenty (20) days before the day of the hearing. Such written notice shall be by certified mail, return receipt requested, delivered to the last-known address of such owner(s) as shown on the current real estate tax assessment books.

(f) The Zoning Administrator shall, at least fifteen (15) days before the date of the first hearing, post on the land involved in any application a notice of the public hearing. Said notice(s) shall be removed no later than seven (7) days after the conclusion of the last hearing to which they pertain.

(1) Said notice shall be posted at reasonable intervals along every street abutting the subject property, or, if there is no abutting street, then along the exterior boundary lines of the subject property and within a distance of three hundred (300) feet along every street providing access thereto.

(2) Said notice shall contain the date, location, and time of the public hearing, a description of the application, and such other information as may be necessary to provide adequate identification of the application, and additionally, where further information on the application may be obtained.

(g) The applicant(s) shall send written notice to all owners of the property abutting and immediately across the street from the subject property. If such property owners total less than ten (10), then written notice shall be given to other property owners in the immediate vicinity so that notices are sent to not less than ten (10) owners.

(1) Such written notice shall state the date, time and place of the public hearing, a description of the application, the location and size of the district, and the name of the applicant(s).

(2) Such written notice shall be sent by certified mail, return receipt requested, and postmarked not less than fifteen (15) days prior to the hearing, to the last-known address of the owner(s) as shown on the current real estate assessment books. (21-95-115.)

Section 115-4-8. Provisions of local district ordinances.

Any district ordinance adopted by the Board in order to establish or renew an agricultural and forestal district shall include the following provisions:

(a) That no parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance establishing such district for eight (8) years from the date of adoption of such ordinance. This provision shall not be construed to restrict expansion of or improvements to the agricultural or forestal use of the land or to prevent the construction of one (1) additional house within the district, where otherwise permitted by applicable law, for either an owner, a member of an owner's family, or for a tenant who farms the land;

(b) That no parcel added to an already established district shall be developed to a more intensive use than its existing use at the time of addition to the district for eight (8) years from the date of adopting of the original district ordinance;

(c) That land used in agricultural and forestal production within the agricultural and forestal district of local significance shall automatically qualify for an agricultural or forestal value assessment on such land pursuant to Chapter 4, Article 19 of the Fairfax County Code and to *Code of Virginia*, Section 58-769.4 et seq., if the requirements for such assessment contained therein are satisfied;

(d) That the district shall be reviewed by the Board of Supervisors at the end of the eight-year period and that it may by ordinance renew the district or a modification thereof for another eight-year period. No owner of land shall be included in any agricultural and forestal district of local significance without such owner's written approval; and

(e) Any other provisions to the mutual agreement of the landowner and the Board of Supervisors that further the purpose of this Chapter. (21-95-115.)

Section 115-4-9. Renewal of local districts.

(a) Local districts may be renewed by the adoption by the Board of Supervisors of a district ordinance as described in Section 115-4-8.

(b) No land may be included in a renewed district without the written approval of all the owners of such land. Notice of such approval shall be given by the completion, signing and submission of an application as provided in Article 8 of this Chapter. Such application should be submitted at least six (6) months before the expiration date of the existing district which is to be considered for renewal, but in no case shall it be submitted later than sixty (60) days before such expiration date.

(c) When a renewal application has been submitted and accepted, the procedures outlined in Article 4 of this Chapter shall be used to review such application.

(d) If no renewal application is submitted and accepted by the deadline required in Section 115-4-9(b), the district shall not be renewed; however, owners formerly in a district may reapply pursuant to Section 115-3-1 at any time.

(e) If a renewal application signed by all owners of parcels proposed for inclusion in a renewed district is submitted and accepted by the deadline required in Section 115-4-9(b), but the Board of Supervisors fails to act on the application by the expiration date of the district, such district, including only those parcels proposed for renewal, shall continue; and all provisions of the district ordinance and this Chapter shall apply until such time as the Board of Supervisors makes its decision whether or not to renew the district as proposed.

(f) If a district is not renewed, the lands that were formerly in the district shall no longer be restricted in use as required by the district ordinance, shall no longer qualify for an agricultural or forestal value assessment, nor shall other provisions of the district ordinance any longer apply to such lands. (21-95-115.)

ARTICLE 5.

Criteria for Establishment, Modification, Renewal or Termination of a District.

Section 115-5-1. Criteria.

The following criteria shall be used as a guide in recommendations and decisions on whether to establish, modify, renew, continue or terminate local agricultural and forestal districts:

Criteria Group A: All the following criteria should be met by all proposed districts:

(1) All district acreage should be currently devoted to agricultural use or forestal use or should be undeveloped and suitable for such uses, except that a reasonable amount of residential or other use, related to the agricultural or forestal use and generally not more than five (5) acres per district, may be included.

(2) All lands in the district should be zoned to the R-P, R-C, R-A or R-E District.

(3) The district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: 1-.2 dwelling unit per acre, .2 dwelling unit per acre, .2-.5 dwelling unit per acre, .5-1 dwelling unit per acre, Private Recreation, Private Open Space, Public Park, Agriculture, Environmental Quality Corridor. Lands not planned as such may be considered for a district if they meet at least three (3) of Criteria Group B.

(4) A majority of the surrounding land within one-quarter mile of the district should be planned according to the Comprehensive Plan for uses identified in (a)(3), above. Exceptions may be made for lands located at the edge of a planned growth area or which meet at least three (3) of the criteria of Criteria Group B, if no conflicts with surrounding uses, existing and planned, are evident or likely.

(5) All farms to be included in a district should be at least twenty (20) acres in size. A farm may include several parcels of land; however, all parcels must have the same owner or else owners must be members of the same immediate family or a family trust or family corporation. A farm must include at least fifteen (15) acres of land in agricultural use. A farm may include noncontiguous parcels within one (1) mile of the core acreage (the largest parcel or group of contiguous parcels or the parcel where the farm buildings are located) as long the noncontiguous parcels are predominately agricultural in use and as long as the total acreage of each individual farm (including contiguous and noncontiguous lands) is at least twenty (20) acres.

(6) All other properties not included in a farm as defined in (a)(5), that is, forested and partially forested properties, and properties with less than fifteen (15) acres in agricultural use, should be at least twenty (20) acres in size. These properties may contain several parcels; but all parcels must be contiguous, and all must have the same owner, or else owners must be members of the same family or a family trust or family corporation.

(7) Approximately two-thirds of the land in agricultural use in the district should contain Class I, II, III or IV soils as defined by the USDA Soil Conservation Service. Districts having more than one-third of the land in agricultural use containing Classes V--VIII soils may be considered if such lands have been improved and managed to reduce soil erosion, maintain soil nutrients, and reduce nonpoint source pollution.

(8) Agricultural land in the district should be used in a planned program of soil management, soil conservation and pollution control practices which is intended to reduce or prevent soil erosion, maintain soil nutrients, control practices which is intended to reduce or prevent soil erosion, maintain soil nutrients, control brush, woody growth and noxious weeds on crop land, hay land and pasture land, and reduce nonpoint source pollution. Exceptions to this criterion may be made only for those agricultural lands which upon initial application for the

establishment of a district are not used in such a program but for which a conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District.

(9) Forest land and undeveloped land in the district should be kept in an undisturbed state, or if periodically harvested or experiencing erosion problems, shall be used in a planned program of soil management, soil conservation and pollution control practices which is intended to reduce or prevent soil erosion, maintain soil nutrients and reduce nonpoint source pollution. Exceptions to this criterion may be made only for those lands which upon initial application for the establishment of a district are not used in such a program but for which a conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District or the Virginia Division of Forestry.

(10) There should be evidence of a history of investment in farm or forest improvements or other commitments to continuing agricultural or forestal use in the district. In particular, districts with no history of investments in farm or forest improvements must evidence a firm commitment to agricultural or forest use for at least the life of the district.

(b) *Criteria Group B:* In addition to meeting all of Criteria Group A, all properties in the district should meet as well at least two (2) of the following criteria:

(1) Farm and/or forest products have been regularly produced and sold from the property during the last five (5) years.

(2) The land provides scenic vistas, improves the aesthetic quality of views from County roads or contributes to maintaining the existing rural character of an area.

(3) The property contains an historically and/or archaeologically significant site which would be preserved in conjunction with the establishment of a district. A site that is listed on the Federal Registry of Historic Places, the State Registry of Historic Places and/or the County Inventory of Historic Places will be considered historically and/or archaeologically significant. A property which contains a site that is considered to be archaeologically significant by the County Archaeologist, or is located in an area with a high potential for archaeological sites, provided that the property owner has agreed to permit the County Archaeologist access to the site, may also be considered historically and/or archaeologically significant.

(4) Farming or forestry operations practice unique or particularly effective water pollution control measures (BMP's).

(5) The land is zoned R-A, R-P or R-C.

(6) The land is entirely in a permanent open space easement. (13-83-115; 21-95-115.)

ARTICLE 6.

Discontinuance of Association in a District.

Section 115-6-1. Discontinuance of association during initial review of district application.

Any owner included in a district application may withdraw his land, in whole or in part, at any time during the initial application review process until the Board makes a final decision as to the constitution of the district pursuant to Article 4, Section 115-4-6 of this Chapter. Notice of such termination shall be made in written form and shall be submitted to the Zoning Administrator.

Section 115-6-2. Discontinuance of association after the creation of a district.

(a) At any time after the creation of a district, any owner of land lying in such district may file with the Zoning Administrator a written notice of termination. Upon filing of such notice, the termination shall be effective.

(b) Upon termination of an owner's association with any district created pursuant to this Chapter, the real estate previously included in such district shall be subject to roll-back taxes, as are provided in Section 58-769.10 of the *Code of Virginia*, and also a penalty in the amount equal to two (2) times the taxes determined in the year following the withdrawal from the district on all real estate previously included in the district.

(c) Upon termination of an owner's association with a district, no provisions of the ordinance which established the district shall any longer apply to the lands previously in the district which were withdrawn.

(d) The termination of any owner's association in a lawfully constituted district shall not itself serve to terminate the existence of the district. Such district shall continue in effect and be subject to review as to whether it should be terminated, modified or contained pursuant to Article 4 of this Chapter. (13-83-115; 16-85-115.)

ARTICLE 7.

Agricultural and Forestal Districts Advisory Committee.

Section 115-7-1. Establishment of an Advisory Committee.

The Agricultural and Forestal Districts Advisory Committee established by the Board pursuant to Section 15.1-1510 of the *Code of Virginia* shall also serve as the Agricultural and Forestal Districts Advisory Committee for local districts. (13-83-115.)

Section 115-7-2. Committee organization and terms.

(a) The advisory Committee shall meet and organize itself by electing a chairman, a vice-chairman and electing or appointing a secretary, who need not be a member of the Committee.

(b) Advisory Committee members shall serve at the pleasure of the Board. (13-83-115.)

Section 115-7-3. Committee payment.

The Advisory Committee shall serve without pay, but the Board may reimburse each member for actual and necessary expenses incurred in the performance of his or her duties. (13-83-115.)

Section 115-7-4. Committee duties.

The Advisory Committee shall advise the Board and the Planning Commission regarding the proposed establishment, modification, renewal, continuation and termination of agricultural and forestal districts. In particular, the Advisory Committee shall render expert advice relating to the desirability of such actions including advice as to the nature of farming and forestry and farm and forest resources within the proposed district and surrounding area and the relation of such activities in the district to the entire County. (13-83-115.)

ARTICLE 8.

Administration, Forms and Fees.

Section 115-8-1. Administration.

All applications and fees shall be submitted to the Zoning Administrator. (13-83-115.)

Section 115-8-2. Application forms and submission requirements.

(a) Initial, amendment and renewal applications shall not be accepted until the following items have been submitted in proper form:

(1) An application form which provides such information as the total district acreage, the tax map parcel numbers for all parcels included in the application, the acreage of each parcel, the names and addresses of all owners, affidavits, signatures of all owners, date of application acceptance.

(2) The most recently published County 500-scale zoning map(s) showing all parcels in the application and indicating the location of the farmhouse(s), outbuildings, cropland, pastureland, forest land, and access points to public roads.

(3) A metes and bounds description of any partial parcel(s).

(4) A plat of any partial parcel(s) included in the application.

(5) A written explanation of how the district meets the criteria for districts listed in Section 115-5-1.

(b) When a district is being reviewed as to whether it should be continued after one (1) or more property owners have terminated their participation in a district, no application is required to be submitted by landowners remaining in the district; except in cases where part of a parcel is to be removed, and in such cases, a metes and bounds description and a plat of each remaining partial parcel must be submitted by the owner of the parcel(s). (13-83-115; 16-85-115.)

Section 115-8-3. Fees.

A fee of Fifty Dollars (\$50.00) will be required for initial, amendment and renewal application. (13-83-115.)

ARTICLE 9.

Districts Established Under This Chapter.

Section 115-9-1. District ordinances.

Ordinances establishing specific local agricultural and forestal districts are listed in Appendix F. (13-83-115.)